THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9462 of 1998

ORAL ORDER:

-

This writ petition is filed seeking a Mandamus declaring the action of the respondents in fixing the pay of the petitioner in the cadre of Post Graduate Teacher and also in the cadre of Principal as arbitrary, illegal and contrary to Fundamental Rule 22(a)(i) and consequently direct the respondents to effect proper fixation of pay of the petitioner in the cadre of Post Graduate Teacher and Principal and pay arrears.

It appears, petitioner was appointed as a Trained Graduate Teacher in Bio-Sciences in the Respondent Society vide order dated 13.10.1979 and thereafter vide proceedings dated 29.6.1983, she was appointed as Post Graduate Teacher in the pay scale of Rs.800-1450. The complaint of the petitioner is that as on 29.6.1983, when she has promoted to the post of Post Graduate Teacher, her basic pay was Rs.840/- in the substantive post of Trained Graduate Teacher and her increment was due on 1.11.1983 in that grade. Therefore, she opted for Post Graduate Teacher scales with effect from 1.11.1983. Thus, her salary could have been properly fixed by protecting the salary drawn by her in the substantive post of Trained Graduate Teacher. Her salary as on 29.6.1983 was Rs.840/- and she would have drawn another increment of Rs.30/- by 30.10.1982 and as per Fundamental Rule 22(a)(i), she is also entitled for another increment of Rs.35/-. Thus, her pay could have been fixed at Rs.905/-. Whereas, the respondents fixed her pay at Rs.840/- just protecting her last drawn pay, which is arbitrary and illegal.

A detailed counter affidavit has been filed by the respondents denying the allegations made by the petitioner while stating that it is true that the petitioner was drawing the pay scale of Rs.840/- as on 29.6.1983 when she was promoted to the post of Post Graduate Teacher from Trained Graduate Teacher and therefore, her last drawn salary was protected under Fundamental Rule 22(a)(ii). The Fundamental Rule 22(a)(i) has no

application to the case of the petitioner since she is not promoted. Since she was appointed afresh, she is not entitled for the benefit of Rule 22(a)(i).

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material made available on record.

I am in full agreement with the contentions raised by the learned counsel for petitioner. The petitioner was promoted/appointed to the post of Post Graduate Teacher with effect from 29.6.1983.

Rule 22(a)(i) of the Fundamental Rules reads as follows:

> "When appointment to the new post involves the assumption of duties or responsibilities of greater importance (as interpreted for the purpose of Rule 30), than those attaching to such permanent post, he will draw as initial pay the stage of the timescale next above his substantive pay in respect of the old post".

The petitioner is entitled not only for the last drawn pay in the substantive post of Trained Graduate Teacher, but she is also entitled for increment in the substantive post as on 30.10.1983 and for another increment of Rs.35/-. Thus, she is entitled for fitment of her salary at Rs.905/- as on 29.6.1983. The contention of the learned counsel for respondent that since the petitioner is not promoted, she is not entitled for the benefit of Rule 22(a)(i) cannot be countenanced. Whether she is promoted or appointed, Rule 22(a)(i) is applicable and the petitioner is entitled for protection of her salary in the last drawn pay and also entitled for increments as stated supra. Since, the petitioner gave option for coming into Post Graduate Teacher scale with effect from 1.11.1983, she is also entitled for one increment thereafter.

However, petitioner is not entitled for any protection of her pay as prayed for in the post of Principal. She was only an Incharge Principal and no pay scale is fixed to the post of Principal. Whether Principal or Teacher, pay scale is one and the same may be the Principal has to attend to administrative works and entitled for certain remuneration. Therefore, on this count, the petitioner is not entitled for any relief.

The writ petition is accordingly disposed of. No order as to costs.

_____

C.V.RAMULU, J

Date: 4.4.2007

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9462 of 1998

4.4.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9462 of 1998

Date: 4th April, 2007

Between:

P.Sundara Laxmi

.. Petitioner

And

A.P. Residential Educational
Institutions Society, rep. by its Secretary,
III Floor, Gagan Vihar, Nampally,
Hyderabad.

.. Respondent